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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,325	03/30/2004	Frederick Cuffari JR.	35468US1	5123

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EXAMINER
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HUYNH, KHOA D

ART UNIT	PAPER NUMBER
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3751

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/813,325

Applicant(s)

CUFFARI ET AL.

Examiner

Khoa D. Huynh

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Drawings*

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the at least one locking mechanism as recited in claim 20 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3, 4, 5, 7, 8 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nutter (4411295) in view of Guth (6450515).

Regarding claims 1 and 19, the Nutter reference discloses an arrangement for moving and filling multiple storage containers. The arrangement is used to fill containers with various kinds of fluids including a pressurized source of fluid (col. 1, lines 10-11). The arrangement includes a movable pallet or rack (26) for receiving the containers. The arrangement also includes a fixed filling station (at 12; also col. 2, lines 66-68) having a plurality of dispensing devices (the filler tubes extending from the supply conduit 120 as schematically shown in Fig. 1), each engagable with a storage container (col. 5, lines 17-19). As schematically shown in Figure 1, the rack and the filling station are arranged such that the rack is movable into proximity with the filling station and is movable away from the filling station, and the dispensing devices are arranged within the filling station such that each container is in proximity to a respective dispensing device when the rack and the filling station are in proximity.

The Nutter reference DIFFERS in that it does not specifically include ground-engaging movable members attached to the pallet or rack as claimed.

Attention, however, is directed to the Guth reference which discloses a pallet or rack (at 20 or 60) for receiving containers. The pallet or rack has ground-engaging movable members or wheels (at 28 or 68) attached to the pallet or rack for pushing the pallet or rack. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Nutter reference by employing ground-engaging movable members or wheels attached to the pallet or rack, in view of the teaching of Guth, in order to move the pallet or rack easily by hand without the use of forklift trucks.

Regarding claim 3, the modified Nutter reference also discloses that the rack includes locations (col. 5, lines 32-38) for receiving the container such that the containers need not be removed from the rack while the rack is moved into proximity with the filling station.

Regarding claim 4, the Nutter reference discloses that the filling station (at 12) is used for filling containers located on pallets or racks (26). Thus, it is inherent that when the containers on a rack are filled, that rack will be moved, via the operation of the ground-engaging movable members, out of proximity with the filling station to a location relatively distant from the filling station such that a second movable rack may be moved into proximity with the filling station.

Regarding claims 5, 7 and 8, the method as claimed would be inherent during the normal used and operation of the Nutter arrangement.

Regarding claim 20 (as best understood without support from the drawings), the Guth reference also discloses that the wheels may be of the type having locks (col. 4, line 34).

Regarding claim 21, as schematically shown in Figure 1 or 2 of the Guth reference, the wheels are mounted to the bottom of the lower portion of the pallet or rack so that the pallet or rack can be moved by hand.

3. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ver Hage (6684915) in view of Guth (6450515) and Nutter (4411295).

Regarding claim 1, the Ver Hage reference discloses an arrangement for moving and filling multiple storage containers. The arrangement includes a movable rack (40A) for receiving the containers. The arrangement includes a fixed filling station (Fig. 1) having a plurality of dispensing devices (about 12), each engagable with a storage container via supply lines (26,28). The rack and the filling station are arranged such that the rack is movable into proximity with the filling station and is movable away from the filling station, and the dispensing devices are arranged within the filling station such that each container is in proximity to a respective dispensing device when the rack and the filling station are in proximity (col. 5, lines 15-33). The Ver Hage also discloses that the rack can be moved by a dolly stand with wheels (col. 5, lines 54-55).

The Ver Hage reference DIFFERS in that it does not specifically include ground-engaging movable members attached to the rack as claimed. Attention, however, is directed to the Guth reference which discloses a rack (at 20 or 60)

for receiving containers. The rack has ground-engaging movable members or wheels (at 28 or 68) attached to the rack for pushing the rack. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Ver Hage reference by employing ground-engaging movable members or wheels attached to the rack, in view of the teaching of Guth, so that the rack can easily be moved by pushing it by hand without the use of dollies.

The Ver Hage reference also DIFFERS in that it does not specifically disclose that the arrangement is for filling the containers with pressurized containers as claimed. Attention, however, is directed to the Nutter reference which discloses another arrangement which is used to fill containers with various kinds of fluids including a pressurized source of fluid (col. 1, lines 10-11). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Ver Hage reference by utilizing it to filling containers with pressurized liquid in view of the teaching of Nutter. Such modification would be considered a choice of a preferred dispensing fluid on the basis of its suitability for the intended use.

Regarding claim 2, the filling station also includes parts (21) that mate with the parts of the rack when the rack is moved and placed in proximity of the filling station to prevent the displacement of the rack during filling.

Regarding claim 3, as schematically shown in Figure 4 of Ver Hage, the rack includes grids or locations for receiving the container such that the

containers need not be removed from the rack while the rack is moved into proximity with the filling station.

Regarding claim 4, the modified Ver Hage reference also discloses a second movable rack (40B) which may be moved into proximity with the filling station when the containers on the first rack (40A) are filled and the first rack is moved out of proximity with the filling station to a location relatively distant from the filling station.

Regarding claims 5, 7 and 8, the method as claimed would be inherent during the normal used and operation of the modified Ver Hage arrangement.

Regarding claims 9 and 11, claims 9 and 11 recite limitations that are similar to those of the claims 1 and 4 which have been rejected as discussed above.

Regarding claims 10 and 12, even though the modified Ver Hage reference does not specifically disclose that the second holding device (40B) includes a pallet structure as claimed, it would have been obvious to one of ordinary skill in the art to recognize that utilizing a pallet instead of a rack for holding containers is well within one skill in the art since these containers-holding mechanism have been used interchangeably with one another for holding containers, especially since Ver Hage also discloses that a dolly stand with wheels (col. 5, lines 54-55) may be used to place the containers under the dispensing devices.



Regarding claim 13, claim 13 is similar to claim 2 which has been rejected as discussed above.

Regarding claims 14-18, the method as claimed would be inherent during the normal used and operation of the modified Ver Hage arrangement.

#### ***Response to Amendment***

4. Applicant's amendment, filed on 02/15/2005, to the pending claims is insufficient to distinguish the claimed invention from the cited prior art or overcome the rejections as discussed above.

#### ***Response to Arguments***

5. Applicant's arguments filed on 02/15/2005 with respect to the pending claims have been fully considered. However, they are deemed not persuasive.

Applicant asserts that Nutter does not teach the amended limitation of "ground-engaging movable members attached to the rack". See Remarks section, page 7.

Applicant also asserts that neither Ver Hage or Nutter teaches the amended limitation of "ground-engaging movable members attached to the rack": See Remarks section, pages 7-8.

Nevertheless, such assertions are now moot in view of the new grounds of rejections under 35 U.S.C. 103(a) as being unpatentable over Nutter (4411295) in view of Guth (6450515) and under 35 U.S.C. 103(a) as being unpatentable over Ver Hage (6684915) in view of Guth (6450515) and Nutter (4411295) as discussed supra.

Also applicant newly added claims 19-21 have been objected to and rejected as discussed supra.

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

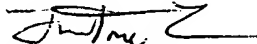
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa D. Huynh whose telephone number is (571) 272-4888. The examiner can normally be reached on M-F (7:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3751

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HK  
05/15/2005

  
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5/14/05